

**Statement of Rebecca E. Kuehn
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**Subcommittee on Financial Institutions
Committee on Financial Services
United States House of Representatives**

Hearing on: “Promoting Access to Credit for Everyday Americans”

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Chairman Barr, Ranking Member Foster, and Members of the Subcommittee, thank you for the opportunity to testify today. My name is Rebecca E. Kuehn, and I am appearing in my individual capacity. I am a partner at Hudson Cook, LLP, where I chair the firm’s Credit Reporting, Privacy, and Data Security Practice Group. Over the course of nearly three decades, I have worked with the Fair Credit Reporting Act (“FCRA”) from multiple perspectives: as a private practitioner advising and litigating on behalf of consumer reporting agencies, lenders, and furnishers; as the Assistant Director at the Federal Trade Commission responsible for leading the federal government’s FCRA program; and as in-house counsel for a consumer data and public records company.

I have also had the privilege of participating directly in policy development and education efforts, including serving as a panelist at the joint FTC–CFPB Accuracy in Consumer Reporting Workshop, contributing to the FTC’s *40 Years of Experience with the Fair Credit Reporting Act* report, and advising domestic and international policymakers on credit reporting standards. These experiences inform my testimony today.

I appreciate the Committee’s interest in understanding how credit reporting supports access to credit, why accuracy is foundational to that system, how the FCRA has evolved over time, and why targeted reforms—such as the proposed FCRA Liability Harmonization Act—are

necessary to preserve consumer benefits while curbing litigation practices that ultimately undermine consumers.

I. The Role of Credit Reporting in Expanding Access to Credit and Supporting the Economy

The United States has developed one of the most robust consumer credit systems in the world. At its core, this system allows lenders to make rapid, objective, and scalable assessments of risk. That capacity lowers the cost of credit, expands access to borrowers who might otherwise be excluded, and fuels economic activity across housing, education, small business formation, transportation, and employment.

Congress expressly recognized this reality when it enacted the FCRA in 1970, finding that *“the banking system is dependent upon fair and accurate credit reporting.”* Credit reporting enables lenders to evaluate applicants on their individual credit behavior rather than relying on proxies, personal relationships, or wealth. Credit reports provide standardized, objective information, which has helped drive huge developments in the availability and accessibility of credit to consumers, who may now apply for, and receive, new credit from the palm of their hand. In that sense, the system is inherently democratizing—it allows consumers to build financial reputations over time through responsible conduct.

Credit reporting also supports competition. When lenders have access to standardized, reliable information, new entrants can compete with incumbents, and consumers can shop for better terms. Without a functioning credit reporting system, access to credit would contract, prices would rise, and subjective decision-making would increase—all outcomes that harm everyday Americans.

Similarly, decisions about the use of alternative credit data have real-world consequences for access to credit. Responsible use of alternative data—such as consistent utility and

telecommunications payment information, as well as cash-flow data derived from bank account activity—can help credit-invisible and credit-underserved consumers demonstrate financial reliability and gain access to mainstream credit. When used with appropriate safeguards and reasonable procedures, these data sources can complement traditional credit information and expand opportunity for consumers who might otherwise remain outside the traditional credit system without sacrificing fairness or accuracy.

II. Accuracy as the Cornerstone of the Consumer Reporting System

Accuracy is not peripheral to credit reporting; it is its lifeblood. The FCRA establishes a *procedural* standard for accuracy—requiring consumer reporting agencies to follow **reasonable procedures to assure maximum possible accuracy**. Congress deliberately rejected a standard of perfection or strict liability and created a system that relies upon consumers to identify potential errors in data and provide information to correct them. This choice reflects a recognition that absolute accuracy is not achievable in a system that processes billions of data points supplied by tens of thousands of furnishers and updated continuously.

Instead, Congress paired this reasonableness standard with what I often describe as a “self-correcting ecosystem.” Consumers have powerful rights to access their reports for free, dispute information they believe to be inaccurate, submit supporting documentation, and add explanatory statements. Furnishers bear the foundational responsibility for the accuracy and integrity of the data they supply. Regulators supervise, examine, and enforce. And market forces reward accuracy because unreliable data quickly loses value to users.

Over time, the industry and regulators have invested heavily in improving accuracy and dispute resolution. These investments include:

- Standardized data reporting formats (such as Metro 2®) to reduce ambiguity and inconsistency;

- Rigorous furnisher onboarding and monitoring programs;
- Automated quality checks and anomaly detection;
- Enhanced dispute resolution platforms and escalation paths;
- Improved consumer disclosures and educational tools;
- Expanded free access to credit reports, freezes, and fraud alerts; and
- Significant regulatory oversight by the CFPB and FTC, including examinations and enforcement.

Studies and regulatory assessments conducted over time, including work by the Federal Trade Commission and subsequent supervisory oversight by the Consumer Financial Protection Bureau, have examined the accuracy of consumer reporting systems and the operation of dispute resolution processes. Since those early studies, Congress and regulators have adopted additional requirements, particularly for furnishers, and implemented ongoing supervision and enforcement to strengthen accuracy and accountability. The FCRA's structure emphasizes reasonable procedures and consumer-initiated corrections, rather than a standard of perfection.

At the same time, experience has shown that the accuracy framework can be distorted when dispute and identity theft tools are misused, particularly by credit repair operations that flood the system with frivolous or fraudulent claims. That misuse diverts resources away from legitimate consumer disputes and erodes confidence in the system without improving consumer outcomes. If Congress is concerned about accuracy, it must also be concerned about preserving the integrity of the mechanisms designed to protect it.

III. The Evolution of the Fair Credit Reporting Act

The FCRA is not a static statute. Since 1970, Congress has repeatedly revisited and updated it to reflect market developments, new risks, and evolving consumer expectations.

Key milestones include:

- **The 1996 amendments**, which modernized the FCRA by expanding the CRAs’ accuracy and dispute-resolution obligations, strengthening privacy rights by clarifying permissible uses of consumer reports, including for employment, and strengthening consumer disclosure rights. In return for enhanced consumer protections, Congress crafted a comprehensive preemption framework—part of the broader legislative bargain—to ensure uniform national standards for how CRAs fulfill core obligations, rather than subjecting those obligations to state-by-state regulation;
- **The Fair and Accurate Credit Transactions Act of 2003 (FACT Act)**, which dramatically expanded identity theft protections, including creating an expedited process by which a consumer could request a CRA block the reporting of allegedly fraudulent information. The FACT Act also granted consumers free annual credit reports, and an online platform through which to request them, increased transparency into credit scores, and directed agencies to issue detailed furnisher accuracy regulations;
- **Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act**, which transferred primary rulemaking, supervision, and enforcement authority for the FCRA to the Consumer Financial Protection Bureau, added a supervisory regime for covered financial consumer reporting agencies and furnishers, and expanded federal oversight and enforcement of FCRA compliance;
- **The Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018**, which further expanded consumer protections by providing all consumers with the right to place and lift security freezes with the nationwide consumer reporting agencies for free, extending fraud alert protections for certain populations, and continuing Congress’s focus on identity theft prevention and consumer control over credit file information;
- Ongoing interpretive guidance, rulemaking, and enforcement by the FTC and CFPB; and
- Voluntary and state-driven initiatives, such as the National Consumer Assistance Plan, that further strengthened data quality and consumer tools.

As someone who led the federal FCRA program during a formative period of these developments, I can say with confidence that the statute’s flexibility—anchored in reasonableness rather than absolutism—is one of its greatest strengths. It allows the system to adapt while maintaining strong consumer protections.

IV. The Need for Liability Harmonization Under the FCRA

Congress has strengthened the FCRA through measured adjustments to substantive obligations, supervision, and consumer tools, but the statute's civil liability framework has developed along a different and increasingly misaligned path.

The FCRA is an outlier among federal consumer protection statutes. Unlike the Equal Credit Opportunity Act, the Truth in Lending Act, the Fair Debt Collection Practices Act, and the Electronic Fund Transfer Act, the FCRA permits uncapped statutory and punitive damages in class actions, even in cases involving purely technical or procedural violations. For reference, a comparison of the FCRA's civil liability framework with other federal consumer protection statutes is included as an appendix to this testimony.

Experience has shown that when liability exposure is driven primarily by the aggregation of statutory damages and fee awards, incentives can shift away from quickly helping consumers to correct errors and towards prolonged litigation, which undermines the very interests the FCRA attempts to protect - the communication of accurate information. Aligning the FCRA with other consumer protection statutes would better encourage early resolution, efficient dispute handling, and outcomes that directly benefit consumers. As reflected in commentary and observations from across the financial services ecosystem, this misalignment has encouraged abusive practices - both pre-and-post-litigation.

The system dis-incentivizes the submission of detailed, clear disputes containing all necessary information to allow the consumer reporting agency to reinvestigate the disputed information. Instead, especially in the case of credit repair organizations, consumer reporting agencies are inundated with a flood of incomplete, vague and misleading letters allegedly disputing myriad information in a report. The reason for this is clear: the existing private-enforcement incentives can support claims seeking enormous aggregate statutory

damages and attorney's fees based on technical or procedural violations unrelated to consumer harm. Faced with that risk, companies often settle cases, regardless of merit. Litigation is generally not designed to provide consumers with prompt relief, and disputes over allegedly inaccurate information may persist for extended periods while claims are litigated. And the costs of these settlements do not disappear—they are ultimately borne by consumers through higher prices, reduced innovation, and retrenched access to credit.

The FCRA Liability Harmonization Act, H.R. 5775, would align the FCRA with every other major consumer financial protection law by:

- Capping statutory damages in class actions;
- Eliminating punitive damages in class actions;
- Preserving actual damages and individual causes of action; and
- Maintaining reasonable attorney's fee provisions.

This is not a rollback of consumer protection. It is a recalibration that preserves meaningful remedies for harmed consumers while discouraging litigation that benefits lawyers but destabilizes a critical economic infrastructure.

Conclusion

Credit reporting is not an abstract regulatory construct. It is a daily, practical tool that enables millions of Americans to buy homes, attend school, start businesses, obtain jobs, and weather financial setbacks. Accuracy is essential to that system, and Congress has wisely built a framework that promotes it through reasonableness, accountability, and consumer empowerment. But for the system to continue serving everyday Americans, its legal structure must also be sustainable. Liability rules that invite abuse ultimately harm the very consumers they purport to protect.

I urge the Committee to consider the FCRA Liability Harmonization Act as a measured, responsible step to preserve access to credit, protect consumers, and maintain confidence in one of the nation's most important financial systems.

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Thank you for the opportunity to testify. I look forward to your questions.

Comparison of FCRA Civil Liability with Other Federal Consumer Protection Statutes

To assist the Committee in its review of the Fair Credit Reporting Act’s civil liability framework, this appendix provides a high-level comparison of the FCRA with other federal consumer protection statutes that, like the FCRA, provide private rights of action, regulatory enforcement, and consumer remedies. The comparison highlights how these statutes balance consumer protections with calibrated limits on aggregate class-action liability.

Statute	Private Right of Action	Statutory Damages	Class Action Damages	Punitive Damages	Attorney’s Fees	Enforcement Structure
Fair Credit Reporting Act (FCRA)	Yes	\$100–\$1,000 per violation (willful)	No aggregate cap	Available	Available	CFPB and FTC; CFPB supervision; state AGs, private suits
Equal Credit Opportunity Act (ECOA)	Yes	None	Capped at lesser of \$500,000 or 1% of net worth	Limited to \$10,000 for individual claim	Available	DOJ, FTC, CFPB, prudential regulators; private suits
Truth in Lending Act (TILA)	Yes	Statutory damages	Capped (generally \$1 million or 1% of net worth)	No	Available	CFPB, FTC, prudential regulators; state AGs, private suits
Fair Debt Collection Practices Act (FDCPA)	Yes	Up to \$1,000 per individual	Capped at lesser of \$500,000 or 1% of net worth	No	Available	CFPB, FTC, prudential regulators; private suits
Electronic Fund Transfer Act (EFTA)	Yes	Statutory damages	Capped at lesser of \$500,000 or 1% of net worth	No	Available	CFPB, FTC, prudential regulators; private suits